ALJ/PVA/jva **DRAFT** **Agenda ID #3425**
Ratesetting
5/27/04 Item 36

Decision **DRAFT DECISION OF ALJ ALLEN (Mailed 4/6/2004)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Authority to Institute a Rate Stabilization Plan with a Rate Increase and End of Rate Freeze Tariffs.	Application 00-11-038 (Filed November 16, 2000)
Emergency Application of Pacific Gas and Electric Company to Adopt a Rate Stabilization Plan. (U 39 E)	Application 00-11-056 (Filed November 22, 2000)
Petition of THE UTILITY REFORM NETWORK for Modification of Resolution E-3527.	Application 00-10-028 (Filed October 17, 2000)

ORDER DENYING PETITION TO MODIFY DECISION 04-01-028

Summary

Southern California Edison (SCE) requests that the Commission change the allocation of the Department of Water Resources' (DWR) bond charge revenue requirement. SCE argues that the current equal-cents-per-kilowatt hour allocation methodology, adopted in Decision (D.) 02-10-063[1] and continued

[1] D.02-10-063 was subsequently modified in D.02-11-074 and D.02-12-082 on other grounds.

unchanged in D.04-01-028, is inequitable. SCE believes the allocation of the bond costs should be changed so that it matches the allocation of the bond proceeds.

Pacific Gas & Electric Company (PG&E) and San Diego Gas & Electric Company (SDG&E) strongly oppose SCE' s request. PG&E and SDG&E argue that the current allocation methodology is fair and equitable, while SCE's proposal would be inequitable.

SCE's Petition to Modify is denied.

Discussion

SCE makes three arguments in support of its request: the current allocation of the bond charge is inequitable, the current allocation is not based on cost causation, and the existing allocation violates Pub. Util. Code § 451.

Equity

The heart of all of SCE's arguments is that the existing allocation of DWR's bond charge revenue requirement is simply unfair. The bond charge revenue requirement is currently allocated on an equal-cents-per-kilowatt hour (kWh) basis, which was adopted in D.02-10-063. In D.04-01-028, this Commission declined to adopt SCE's proposal to change that allocation methodology.[2]

According to SCE, the existing allocation methodology results in SCE paying approximately 45% of the bond charge revenue requirement while only receiving the benefits of approximately 37% of the bond proceeds. On its face, this does in fact sound unfair. But SCE neglects to adequately address the policy reasons that the Commission relied upon in adopting the equal-cents-per-kWh

[2] Theoretically, SCE's petition to modify should more appropriately be aimed at D.02-10-063, as that decision actually established the allocation methodology that SCE is challenging.

allocation in 2002. Those reasons included: (1) the long period of time over which the bond charges would be collected; (2) the benefits of a stable electricity grid, which benefited everyone, including those who did not receive any power from DWR at that time; (3) the lack of a relationship between the cost and price of producing electricity at the height of the energy crisis, when the bond costs were incurred; and (4) the extraordinary nature of the bond costs. (D.04-02-028, p. 5, citing D.02-12-082.)

Looking at these one at a time, it is clear that the Commission in 2002 believed that there was not a direct relationship between what customers were paying and what they were getting.

First, the long period of time over which the bond charges would be collected meant that there would be a disconnect between those who are paying for the bond charges (future customers), and those who received power paid for by the bond charges (customers in 2001-2002). As PG&E points out, the Commission recognized that this “broke the link” between those for whom the power was purchased and those responsible for repayment. (PG&E Response, pp. 8-9, citing D.02-12-082.) In other words, the reality is that there is not (and cannot be) a direct correlation between who pays the costs and who gets the “proceeds” in the form of kWh. SCE ignores this temporal basis for the Commission’s decision, and instead tries to find a link based solely on the geographic location of customers within a specific service territory.

Second, the bond charge paid for the benefit of a stable electric grid, which is a “proceed” much broader than what can be measured just by the number of kWh flowing through a customer’s meter. Just as the societal benefit of firefighters is broader than the number of gallons of water they may pour onto an individual house, this Commission found that the stable electricity grid benefited everyone, including those who did not receive any power from DWR at that time. SCE's conception of "proceeds" is too narrow, and would be akin to firefighters collecting their costs (on a per-gallon basis) only from those whose houses burn down.

Third, the split between the cost of producing electricity and its price in the market is an acknowledgement of the nature of the energy crisis – there was no real-world correlation between what customers were paying and what customers were getting. SCE's argument is that its customers should get what they are paying for, but that was simply not the reality that the bond charge was created to address. The bond charge exists only because customers were not getting anything close to what they were paying, and the bond charge was a way to spread the pain. The existing allocation method spreads it as broadly as possible.

Fourth, the bond costs were truly an extraordinary event. The energy crisis was simply too big and unusual an occurrence to treat like a more typical cost. The customers of a particular utility cannot be considered responsible for the bond costs, so allocating the costs by utility service territory, as SCE proposes, would not be any more equitable than the existing allocation methodology.

These policy reasons confirm that the "proceeds" received by the ratepayers from the bonds are much broader than just kWh flowing through the meter. As we previously stated, "the charge is not in proportion to the direct benefit received by each customer paying the charge." (D.04-02-028, p. 4, quoting D.02-12-082.) This Commission, in D.02-10-063 and D.04-01-028, intentionally adopted an equal-cents-per-kWh allocation to spread the extraordinary costs of the bonds as widely as possible. SCE's focus is simply too narrow, and accordingly SCE has not shown that D.04-01-028 is inequitable.

Cost Causation

SCE argues that the allocation of bond charges should be based on cost-causation principles. While cost-causation is a useful principle for allocating costs, and the Commission has used it with some frequency, it is certainly not the only basis for cost allocation.

SCE tries to argue that cost causation is the guiding principle that the Commission has used in allocating DWR costs. As SCE puts it, "[T]he Commission has adopted a cost-causation principle for the allocation of DWR's costs." (SCE Petition, p. 5.) From this premise, SCE then argues that the existing allocation of the bond charge on a cents-per-kWh basis is an anomaly, a departure from the fundamental principle of cost causation. SCE claims that "The Decision is inconsistent, and thus arbitrary, in its finding that it is adopting a cost-based allocation." (*Id.*, p. 8.)

The problem with SCE's argument is that the Commission has not adopted a universal cost-causation principle for the allocation of DWR's costs, nor is there actually a finding that the Commission has adopted a cost-based allocation for all of DWR's costs. As PG&E points out, SCE does not actually cite to any Commission language that supports its claim. (PG&E Response, pp. 14-16.) In short, the premise of SCE's argument is simply not true.

The decision continues to apply the allocation methodologies previously adopted by the Commission in D.02-02-052 (for the DWR power charge) and in D.02-10-063 (for the DWR bond charge), and those methodologies differ. On a fundamental level, SCE's argument is that those methodologies should not differ. The mere application of two different cost allocation methodologies to two different costs does not, however, make the decision inconsistent or arbitrary.

The power charge and the bond charge are different things, and they need not be treated identically. The Commission could have chosen to treat them identically, but it determined that the fairest approach was to treat them differently.[3] While it is possible to slice an apple and an orange the same way, it is not necessary to do so. As we stated previously, "Edison has failed to provide a convincing explanation why the Bond Charge, which pays for costs incurred in 2001 to stabilize California's electricity grid, should be treated in the same manner as the Power Charge, which pays for ongoing purchases made by DWR." (D.04-02-028, pp. 4-5.)

Pub. Util. Code § 451

SCE claims that the existing allocation of the bond charge violates Pub. Util. Code § 451, on the grounds that the rates resulting from that allocation are not just and reasonable, as required by the statute.

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[3] The bond charge allocation methodology that SCE is attacking was adopted in D.02-10-063, well after the adoption of the power charge allocation methodology in D.02-02-052. At the time, the difference in methodologies did not bother SCE, and in fact SCE did not believe that the cost allocation methods used for the bond charges and the power charges needed to be the same. SCE opposed The Utility Reform Network's (TURN) proposal that would have applied the same basic allocation methodology to both the power charge and the bond charge. Instead, SCE (along with the other utilities and ORA) supported the very methodology it now attacks. SCE claims that this shift in position is a result of post-D.01-10-063 developments that have led to a "better understanding" of DWR's costs and revenues. (SCE Petition, p. 3, fn. 4.) This argument has already been rebutted more than once. (See, e.g., Reply Comments of SDG&E, dated January 5, 2004.) SCE's recently developed concern for consistency appears to be driven more by results than by principles.

This is an allegation of legal error. SCE made this same argument in its application for rehearing, which was rejected by the Commission in D.04-02-028. Since allegations of legal error are properly addressed via applications for rehearing, and this allegation was already raised by SCE and resolved by this Commission on rehearing, we will not revisit that determination here.

We do note that SCE's argument that D.04-01-028 violates § 451 is based on its assertion that the allocation of the bond charge is inequitable. As described above, that assertion is without merit.

Comments on Draft Decision

The draft decision of the administrative law judge (ALJ) in this matter was mailed to the parties in accordance with Section 311(g)(1) of the Public Utilities Code and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on April 26, 2004, and reply comments were filed on May 3, 2004. The comments and reply comments did not raise any new issues or illuminate any errors in the draft decision, and accordingly no changes were made to the draft decision as a result of the comments.

Assignment of Proceedings

Loretta M. Lynch and Geoffrey F. Brown are the Assigned Commissioners and Peter V. Allen is the assigned ALJ for this phase of this proceeding.

Findings of Fact:

1. SCE has not shown that D.04-01-028 is inequitable.
2. SCE has not shown that D.04-01-028 violates principals of cost causation.
3. SCE has not shown that D.04-01-028 violates Pub. Util. Code § 451.

Conclusion of Law

There is no need to modify D.04-01-028.

O R D E R

IT IS ORDERED that Southern California Edison Company's Petition to Modify Decision 04-01-028 is denied.

This order is effective today.

Dated ____________________________, at San Francisco, California.